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09/779,594	02/09/2001	Arjvna Indraeswaran Rajasingham		5728

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EXAMINER PAPE, JOSEPH	
ART UNIT 3612	PAPER NUMBER

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/779,594

Applicant(s)

RAJASINGHAM, ARJVNA  
INDRAESWARAN

Examiner

Joseph D. Pape

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 5-8 and 17-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-16 and 41-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 5-8, 17-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.
2. Applicant's election with traverse in the reply filed on 9/27/02 is acknowledged. The traversal is on the ground(s) that the inventions are not independent or distinct. This is not found persuasive because for elections of species the examiner must only assert that the embodiments are patentably distinct. As set forth at the top of page 4 of the election requirement of 11/4/03, Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention. If at the time of allowance there is an allowable generic claim, withdrawn dependent claims and other claims including all of the allowable features of the allowed generic claim will be rejoined and allowed.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. The amendments filed 9/27/02 and 1/10/03 are objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The following details in the drawings are not supported by the originally filed application papers and are considered to be new matter:

In Figures OJ and 4J, the showing of the auxiliary brake 621 being on the upper primary slide, the deflation device 622.

In Figures OJ1 and 4J1, the showing of the auxiliary brake 621 being on the upper primary slide, the deflation device 622.

In Figures OK-OK4, the position of the fixed body member 624 relative to the protector assemblies 627 and secondary slides 111 and the differing constructions and relative positions of elements 625, 626, 102, 111, 107, 627, and 624. Also, the

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elements numbered 111, 102, and 107 not being in the same horizontally stacked positions as seen in the other drawings of the application.

The following material in the specification is not supported by the originally filed application papers:

On page 7, line 30, the brief description of Figures OJ and 4J, the phrase “the inside airbag deflators (622).

On pages 7 and 8, the brief descriptions of Figures OK-OK4.

On page 12, line 14, “622—deflection device” and “627—protector assembly”.

Applicant is required to cancel the new matter in the reply to this Office Action.

Any argument that Applicant has as to why one or more of the above instances of new matter were supported in the original application papers should be presented with specific reference to an original page of the specification, an original claim or an original drawing figure.

### ***Drawings***

5. Upon cancellation of the figures having new matter, the drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “fixed body member” in claim 1, the structural

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elements and positional relationships set forth in claim 2-4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because figures on pages 17, 18, 20, 21, 23, 24, 25, 31, 32, 33, 34, 35, and 37 of 50 are illegible and page 36 of 50 is blank. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are

required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Objections***

7. Claims 2, 3, 4, and 9-15 are objected to because of the following informalities:

In claim 2, lines 10, 14, 19, 21, and 26, "element" should be changed to –elements--. On line 15, "slide" should be changes to –slides--. On line 24, "the" should be deleted. On line 28, "an" should be deleted and "element" should be changed to –elements--. On line 29, "pair" should be changed to –safety beam upper elements--. On the second to last line, "airbag deploys" should be changed to –airbags deploy—and "mechanism(s)" should be changed to –mechanisms--.

In claim 3, line 5, "comprise the outer arm rest" should be changed to –each comprise an outer arm rest--.

In claim 4, the last line, --one of—should be inserted before "said" and "element" should be changed to –elements--.

In claim 15, line 3, "ejected" should be changed to –ejecting--.

In claim 16, line 14, "slide" should be changed to –slides--. On line 25, "need" should be changed to –needs--. On the second to last line, , "airbag deploys" should be changed to –airbags deploy—and "mechanism(s)" should be changed to –mechanisms--. On the last line, "deploying" should be changed to –deploy--.

In claim 42, "ot" should be changed to –to--.

In claim 43, line 5, --a—should be added after “having”. On line 8, “element” should be changed to —elements—. On line 9, “mechanism” should be changed to —mechanisms—. On line 16, the term “aid” is unclear. On the last line, “airbag deploys” should be changed to —airbags deploy—and “mechanism(s)” should be changed to —mechanisms—.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1, 2-4, 9-16 and 41-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The recitation in claim 1 of a means to divert the impact energy in lateral impacts to be absorbed by the vehicle through the at least one fixed body member is not shown nor described adequately to enable one to make and use the invention.

This also applies to the recitations in all of the dependent claims including the ejection having downward, rearward, upward and forward movement as set forth

in claims 10, 11, 13, and 14. Further, there is inadequate support to make and use a device which raises the ejected elements to be rotated or translated over a sill of a vehicle as set forth in claim 15.

The recitation in claim 41 of means to separate an ejecting part of the passenger support mechanism from a non-ejecting part of the passenger support mechanism and the ejecting part having a means to provide lateral and vertical support to the occupant in the operating position is not shown nor described adequately to enable one to make and use the invention

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, the second to last line, "ejection" has no clear antecedent basis.

In claim 12, the last line, "ejection" has no clear antecedent basis.

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Sloan.

Sloan discloses the claimed invention including an extended position and means 30,44 to separate the non-ejecting part 60 from the ejecting part 10.

### ***Conclusion***

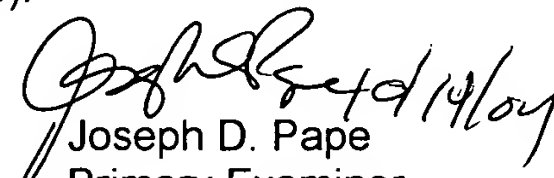
14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show various other shiftable vehicle seating arrangements similar to that of the current invention.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (703) 308-3426. The examiner can normally be reached on Tues.-Fri. (6:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Joseph D. Pape  
Primary Examiner  
Art Unit 3612

Jdp

October 14, 2004